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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ZAHARI TOMOV,

Plaintiff,

19 Civ. 1687 (LLS)

- against -

MEMORANDUM & ORDER
OF DISMISSAL

GRACIELA JOSEPHINA DIXON CANTON, et
al.,

Defendants.

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The First Amended Complaint alleges that plaintiff Zahari Tomov is "an adult citizen of the Republic of Bulgaria" (id., par. 1) and defendant Canton "is and was at all times relevant herein a citizen of the Republic of Panama" (id., par. 2). The complaint claims subject matter jurisdiction because of diversity under 28 U.S.C. § 1332(a)(2). (id., par. 6)

But "the presence of aliens on two sides of a case destroys diversity jurisdiction." Corporacion Venezolana de Fomento v. Vintero Sales Corp., 629 F.2d 786, 790 (2d Cir. 1980), cert denied, 449 U.S.1080 (1981), cited in Franceskin v. Credit Suisse, 214 F.3d 253, 257 (2d Cir. 2000) ("we must vacate the judgments for CS and the Executor because federal courts lack subject matter jurisdiction over state law claims among aliens.")

That is the situation here. With an alien(Bulgaria) on each side (Panama) of the case, there is no diversity jurisdiction.

Conclusion

Defendants' motion is granted, and the First Amended Complaint is dismissed without prejudice for lack of subject matter jurisdiction.

The Clerk will close this case.

So ordered.

Dated: New York, New York
April 29, 2021

Louis L. Stanton
LOUIS L. STANTON
U.S.D.J.